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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,412	09/30/2003	Richard Norris Dodge II	KCC-2137-CIP1-DIV	6498

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EXAMINER

KIDWELL, MICHELE M

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 06/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/675,412

Applicant(s)

DODGE ET AL.

Examiner

Michele Kidwell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the specification does not recited the term "intermixed" as claimed.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1 – 54 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The applicant claims that superabsorbent material particles or fibers are intermixed with a plurality of water-insoluble fibers. This limitation is not supported by the originally filed disclosure.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1, 5 – 11, 13 – 23, 27 – 28, 30 – 31, 35 – 36, 38 – 39, 43 – 44, 46 – 47 and 51 – 52 and 54 are rejected under 35 U.S.C. 102(a) as being anticipated by Chen et al. (US 6,261,679).

With reference to claims 1, 23, 31, 39 and 47, Chen et al. (hereinafter "Chen") discloses an absorbent composite comprising a plurality of water-insoluble fibers and a plurality of superabsorbent material particles or fibers intermixed with a plurality of water-insoluble fibers as set forth in col. 7, line 66 to col. 8, line 2 and in col. 28, lines 27 – 37. The invention of Chen is also directed toward the use of these materials in combination with an absorbent foam material as set forth in col. 1, lines 30 – 34. The composite may be freeze – dried, airformed or wetformed. According to page 8 of the applicant's specification, it is the combination of these materials that allow the composite to produce the claimed results with respect to the intake rate and liquid lock-up fraction. Therefore, the examiner contends that the invention of Chen inherently meets the claimed limitations.

Regarding claims 5 – 7, 27 – 28, 35 – 36, 43 – 44 and 54, see col. 7, line 35 to col. 8, line 2.

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As to claim 8, see col. 18, line 40.

With reference to claims 9 and 51 – 52, see col. 28, line 27 – 32.

With to claims 10 – 11, see col. 29, line 20 to col. 30, line 33.

Regarding claims respect 13 – 15, 30, 38 and 46, see col. 21, lines 52 – 53.

As to claims 16 – 22, see col. 10, line 28 to col. 12, line 33.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 – 4, 12, 24 – 26, 29, 32 – 34, 37, 40 – 42, 45, 48 – 50 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al. (US 6,261,679).

The differences between Chen and claim 2 relate to the intake rate and the liquid lock-up fraction.

It would have been obvious to one of ordinary skill in the art to modify the intake rate and the liquid lock-up fraction in order to determine the most effective product since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable range involves only a level of ordinary skill in the art.

With respect to claims 3 – 4, 24 – 26, 32 – 34, 40 – 42 and 48 – 50, see the rejection of claim 2.

The difference between Chen and claim 12 relates to the amount of superabsorbent used.

It would have been obvious to one of ordinary skill in the art to modify the amount of superabsorbent used in order to determine the most effective product since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable range involves only a level of ordinary skill in the art.

As to claims 29, 37, 45 and 53, see the rejection of claim 12.

Response to Amendment

The amendment filed March 3, 2006 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: the applicant has recited that a plurality of superabsorbent material particles or fibers are intermixed with a plurality of water-insoluble fibers. The applicant recites specific paragraphs as allegedly supporting the amended claim language, however, the examiner does not find support for the term intermixed and only finds descriptions of processes at the cited passages.

Applicant is required to cancel the new matter in the reply to this Office Action.

Response to Arguments

Applicant's arguments filed March 3, 2006 have been fully considered but they are not persuasive.

With respect to the applicant's argument that Chen does not include superabsorbent material particles or fibers intermixed with fibers, the examiner disagrees. Chen discloses processes identical to those stated by applicant to provide support for the amended claim language at col. 28, lines 22 – 37.

The fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**.

See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any


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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Kidwell whose telephone number is 571-272-4935. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Michele Kidwell
Primary Examiner
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